



[Billing Code 6355-01-P]

CONSUMER PRODUCT SAFETY COMMISSION

Electronic Filing of Targeting/Enforcement Data: Announcement of PGA Message Set Test and Request for Participants

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: To advance the concept of a “single window” to facilitate electronic collection, processing, sharing, and reviewing of trade data and documents required by federal agencies during the cargo import and export processes, and in furtherance of more accurately targeting imports to facilitate the flow of legitimate trade and enhanced targeting of noncompliant trade, the U.S. Consumer Product Safety Commission (“Commission” or “CPSC”) in consultation with U.S. Customs & Border Protection (“CBP”) announce their joint intent to conduct a test to assess the electronic filing of certain data via the Partner Government Agency (“PGA”) Message Set to the CBP-authorized Electronic Data Interchange (“EDI”) system known as the Automated Commercial Environment (“ACE”) for regulated finished consumer products under CPSC jurisdiction and three specified finished products included on the Substantial Product Hazard List established under section 15(j) of the CPSA. During the test, participants will collaborate with CBP and CPSC to examine the effectiveness of the “single window” capability. Based on stakeholder feedback, the test also will assess the concept of a data registry (the “Data Registry”), maintained by CPSC, which would allow stakeholders to file a reference to existing

targeting/enforcement data through the PGA Message Set, rather than by entering all data for each entry.

This notice provides the following key information:

- International Trade Data System (“ITDS”) and CBP’s authority to conduct test programs;
- the Commission’s authority regarding data collection and import surveillance;
- the purpose of the test;
- an explanation of the test concept;
- the availability of CPSC’s supplemental Customs and Trade Automated Interface Requirements (“CATAIR”) guideline and request for technical comments;
- participant eligibility, selection criteria, and responsibilities;
- the advantages of test participation; and
- a request that importers interested in test participation contact the Commission.

DATES: Electronic requests to participate in the test program may be submitted on or before [INSERT DATE THAT IS 45 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER] and throughout the duration of the test. CPSC will consider applications to participate until the test capacity of nine participants is filled. The test will continue until terminated by way of an announcement in the *Federal Register*.

ADDRESSES: Requests to participate in the test and technical comments on CPSC’s supplemental CATAIR guideline (which will be made available on CBP.gov) should be submitted through electronic mail to: efilingpilot@cpsc.gov. Requests to participate in the test should contain the subject heading: “Application to participate in PGA Message Set Test.”

Technical comments on CPSC’s supplemental CATAIR guideline should contain the subject heading “CATAIR Technical Comments.”

FOR FURTHER INFORMATION CONTACT: Questions regarding the test should be directed to Jim Joholske, Deputy Director, Office of Import Surveillance, U.S. Consumer Product Safety Commission, (301) 504-7527, efilingpilot@cpsc.gov. Questions sent by electronic mail should contain the subject heading “Question re PGA Message Set Test.” For technical questions regarding ACE or ABI transmissions, or the PGA message set data transmission, please contact your assigned CBP client representative. Interested parties without an assigned client representative should submit an email to Steven Zaccaro at steven.j.zaccaro@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. The Automated Commercial Environment

ACE is an automated and electronic system for commercial trade processing that is intended to streamline business processes, facilitate growth in trade, ensure cargo security, and foster participation in global commerce, while ensuring compliance with U.S. laws and regulations, and reducing costs for CBP and all of its communities of interest. The Automated Broker Interface (“ABI”) is a software interface to ACE. Commercial trade participants who want to file entries in ACE use ABI to electronically file required import data with CBP. ABI transfers trade-submitted data into ACE. CBP is developing ACE as the “single window” for the trade community to comply with the ITDS requirement established by the SAFE Port Act of 2006. The PGA Message Set enables additional trade-related data specified by PGAs to be entered in one location.

B. CPSC and CBP Authority to Regulate the Importation of Consumer Products

Section 14(a) of the Consumer Product Safety Act (“CPSA”), as amended by section 102(b) of the Consumer Product Safety Improvement Act of 2008 (“CPSIA”), Public Law 110-314, requires manufacturers (including importers) and private labelers of certain regulated consumer products manufactured outside the United States to test and issue a certificate of compliance certifying such products as compliant with applicable laws and regulations before importation. Pursuant to section 14(a), the Commission promulgated a final rule on “certificates of compliance” on November 18, 2008 (73 FR 68328), which is codified at 16 CFR part 1110 (“part 1110”). Among other things, part 1110 limits the parties who must issue a certificate to the importer, for products manufactured outside the United States, and, in the case of domestically manufactured products, to the manufacturer, and allows certificates to be in hard copy or electronic form. In addition to this authority, the Commission has admissibility authority for importing consumer products and substances that are within the CPSC’s jurisdiction under section 17 of the CPSA (15 U.S.C. 2066) and section 14 of the Federal Hazardous Substances Act (“FHSA”) (15 U.S.C. 1273). Unless the Commission allows a product to be reconditioned for importation, section 17(a) of the CPSA requires refusal of admission and destruction of any product offered for import that, among other things, is not accompanied by a certificate of compliance required under section 14 of the CPSA, or is a product which is in violation of the inspection and recordkeeping requirements of section 16. In addition to the recordkeeping and inspection authority granted to the Commission under section 16(b), importers, retailers, and distributors of consumer products are required to identify the manufacturer of a consumer product by name, address, or other such identifying information requested by the Commission. 15 U.S.C. 2065(c).

CPSC's authority to regulate the importation of consumer products is further derived from section 17(h)(1), which requires the Commission to "establish and maintain a permanent product surveillance program, in cooperation with other appropriate Federal agencies, for the purpose of carrying out the Commission's responsibilities under this Act and the other Acts administered by the Commission and preventing the entry of unsafe consumer products into the commerce of the United States." 15 U.S.C. 2066(h)(1). Also, under section 222 of the CPSIA, the CPSC is required to develop a risk assessment methodology for the identification of shipments of consumer products that are intended for import into the United States, and are likely to violate consumer product safety statutes and regulations. Consistent with the federal government's movement to the "single window," CPSC eventually plans to require electronic filing of either limited targeting/enforcement data or full certificate data to refine our risk assessment methodology and improve our import surveillance program.

Building on these authorities, CPSC works with CBP to review and inspect cargo and to clear compliant consumer products for importation into the United States. CPSC also works with CBP to enforce CPSC regulations and to destroy products that violate the law and cannot be reconditioned for importation. 15 U.S.C. 2066. For example, section 17 of the CPSA states that, upon the Commission's request, the Secretary of the Treasury has the authority to obtain samples of products offered for importation, without charge, and deliver such samples to the Commission for inspection. 15 U.S.C. 2066(b). Additionally, CBP has the authority to seize and destroy products offered for importation under the Tariff Act, codified at 19 U.S.C. 1595a(c)(2)(A), where the importation or entry of such products is subject to any restriction or prohibition which is imposed by law relating to health, safety, or conservation and such products are not in compliance with the applicable rule, regulation, or statute. An admissibility determination may

be deferred to allow an importer to recondition products for entry. 15 U.S.C. 2066(c). CPSC and CBP have authority to supervise the reconditioning of products for entry that are still under CBP's bond. 15 U.S.C. 2066(d). If these products cannot be reconditioned, they must be refused admission and destroyed, unless the Secretary of the Treasury permits export in lieu of destruction. 15 U.S.C. 2066(d) & (e).

Taken together, these authorities give CPSC a broad ability to monitor all consumer products within its jurisdiction. However, the PGA Message Set test described in this notice will be limited at this time to a study of CPSC regulated consumer products and the following products included on the Substantial Product Hazard List issued under section 15(j) of the CPSA (16 CFR part 1120): hand-supported hair dryers, extension cords, and seasonal and decorative lighting products. The Commission believes that insights gained through this limited PGA Message Set test will begin to inform future import surveillance efforts across broader areas of CPSC's jurisdiction.

C. ITDS Goals and CBP's Authority to Conduct National Customs Automation Program Tests

The ITDS is an electronic data interchange system whose goals include eliminating redundant information requirements, efficiently regulating the flow of commerce, and effectively enforcing laws and regulations relating to international trade by establishing a single portal system, operated by CBP, for the collection and distribution of standard electronic import and export data required by participating federal agencies. All federal agencies that require documentation for clearance or licensing the importation of cargo are required to participate in ITDS. The Customs Modernization provisions in the North American Free Trade Agreement Implementation Act provide the Commissioner of CBP with authority to conduct limited test

programs or procedures designed to evaluate planned components of the National Customs Automation Program (“NCAP”), which includes ACE. The PGA Message Set test described in this notice is in furtherance of the ITDS and NCAP goals.

D. The “Single Window” Approach

President Obama, on February 19, 2014, issued Executive Order 13659, *Streamlining the Export/Import Process for America’s Businesses* (“EO 13659”), which requires certain federal agencies to enhance significantly their use of technology to modernize and simplify the trade processing infrastructure. Specifically, EO 13659 requires applicable government agencies to use CBP’s ITDS, and supporting systems, such as ACE, to create a “single window” through which businesses will electronically submit import-related data for clearance. EO 13659 envisions and is working toward a simpler, more efficient portal for trade use, to benefit the trade and government agencies that have related authorities and responsibilities.

Participating agencies have until December 31, 2016, to implement ACE as the primary means of receiving agency-specific standardized import data. As an independent agency, CPSC is not bound by EO 13659, but electronic filing of more limited targeting/enforcement data or certificate data will aid CPSC in focusing the agency’s resources to clear compliant products more efficiently, target noncompliant shipments more effectively, and improve enforcement of our safety statutes and regulations at the ports.

E. Test Purpose and Goal

Consumer protection, by preventing noncompliant products from ever reaching American homes and American children, was a primary impetus for passage of the CPSIA and remains a high priority initiative of the CPSC. Section 222 of the CPSIA calls for the creation of a risk assessment methodology to better target noncompliant products at import. Accordingly, CPSC

currently will focus its resources on a test with CBP on electronic filing of more limited targeting/enforcement data elements, using the PGA Message Set. Information and feedback from the test will be used to inform the Commission in striving to improve and streamline the import process. The initial intent of this pilot was to require electronic filing of Certificates of Compliance for all regulated imported products. However, after consultation with stakeholders, the Commission has, for the time being, limited the current PGA Message Set Test to collection of certain minimal targeting/enforcement data. This PGA Message Set Test will not provide the Commission with information relating to levels of compliance with the statutory certificate requirements. However, the Commission believes obtaining such information continues to be important to informing future Commission decisions regarding the need for electronic filing of full certificate data.

II. Targeting/Enforcement Data Test

The test will allow two different methods of filing targeting/enforcement data, using the PGA Message Set: (1) filing a minimum of 5 data elements at time of entry (“PGA Message Set”), or (2) filing only a reference to targeting/enforcement data stored in a Registry maintained by CPSC (“Data Registry and Reference PGA Message Set”). Targeting/enforcement data for regulated finished products and specified finished products subject to section 15(j) of the CPSA, either in the form of the complete data set or the registry reference, would be submitted through the PGA Message Set as part of an ACE entry, or ACE entry summary if both entry and entry summary are filed together. Targeting/enforcement data, along with entry data, would then be made available to CPSC for validation, risk assessment, and admissibility determinations at entry, thereby facilitating compliant trade as well as sharpening our focus on noncompliant trade. The data would be used to review consumer product entry requirements and allow for earlier

risk-based admissibility decisions by CPSC staff. Additionally, because it is electronic, the PGA Message Set could eliminate the necessity for submission and subsequent handling of paper documents. Piloting electronic filing as a means to transition away from paper-based filing is a priority initiative of the PGAs to meet the stated “single window” implementation timeline.

A. PGA Message Set

To file data electronically with CBP, information required for eligible finished products would need to be filed in CBP’s ACE system. The proposed PGA Message Set test would evaluate the electronic filing of a minimum of the five targeting/enforcement data elements listed below for regulated finished products and those data elements listed below that are applicable to the following products included on the Substantial Product Hazard List issued under section 15(j) of the CPSA: hand-supported hair dryers, extension cords, and seasonal and decorative lighting products.

1. Identification of the finished product;
2. Each consumer product safety rule to which the finished product has been certified under 16 C.F.R. part 1110;
3. Place where the finished product was manufactured, produced, or assembled, including the identity and address of the manufacturing party;
4. Parties on whose testing a certificate under 16 C.F.R. part 1110 depends (name and contact information of the testing entity); and
5. A check box indicating that a required certificate currently exists for the finished product, as required by Sections 14 and 17 of the CPSA.

Based on years of both CPSC and CBP staff law enforcement experience, CPSC staff has identified at this time the minimal data elements above as crucial for targeting noncompliant products before they enter commerce and enforcing related requirements.

CPSC is drafting a supplemental CATAIR guideline on filing targeting/enforcement data through the PGA Message Set that describes the technical specifications for filing targeting/enforcement data using the PGA Message Set, as well as the Data Registry and Reference PGA Message Set (described in section II.B below). The supplemental CATAIR guideline will be made available before CBP initiates the test and will be posted on <http://www.cbp.gov/trade/ace/catair>. Technical comments on CPSC's supplemental CATAIR guideline should be submitted in accordance with the instructions in the **ADDRESSES** section at the beginning of this notice.

B. CPSC Data Registry and Data Reference PGA Message Set

The Data Registry concept arises out of discussions at CPSC staff's 2014 eFiling workshop. Stakeholders noted that other agencies have existing databases that can be referenced during the CBP entry process without having to re-enter repeatedly large amounts of data. Participants expressed concern about added costs and time for importers to enter data for each regulated finished product and the need for accurate data entry. Customs brokers also expressed concern about lack of access to required data. For example, express carriers were concerned about meeting entry requirements during off-hour times when business personnel were unavailable for consultation. Stakeholders expressed concern that any requirement to re-enter large amounts of data, or lack of access to the required data, may slow the import process.

After considering stakeholder comments and concerns, CPSC has decided to include a Data Registry in the test to inform the Commission whether this concept alleviates some of the

concerns expressed at the 2014 eFiling workshop. Instead of filing complete targeting/enforcement data in ACE with each entry, participants can elect to pre-file information into a Data Registry before filing an entry with CBP. The Data Registry will be created and maintained by CPSC. Use of the Data Registry will be voluntary. Firms can use the Data Registry to enter targeting/enforcement data and to manage those data; or firms with established databases or processes can provide information for many products electronically in a batch upload.

Once targeting/enforcement data are filed in the Data Registry, filers will only need to provide a reference, or identifier, to the data using the PGA Message Set during the entry process, rather than entering all data multiple times. Firms that choose to use the Data Registry only would need to provide their filer with an identifier, and would not need to provide all data elements for each product being imported. Using the Data Registry should minimize data entry; reduce costs and filing time; and allow firms to manage, update, and re-use targeting/enforcement data in the registry. CPSC demonstrated a prototype of the Registry at the May 13, 2015 public meeting with the COAC working group. A webcast of this meeting can be viewed here: <http://www.cpsc.gov/en/Newsroom/Multimedia/?vid=73411>.

III. Test Participant Eligibility, Selection Criteria, and Responsibilities

This document announces CPSC's plan, in consultation with CBP, to conduct a test for the electronic filing of targeting/enforcement data with CBP for regulated consumer products within CPSC's jurisdiction and specified products subject to section 15(j) of the CPSA that are imported into the United States. Test participants will work with CPSC and CBP to refine electronic filing of data through the PGA Message Set, by filing all data elements in the PGA Message Set, or by using the Data Registry, and filing a reference to targeting/enforcement data

through PGA Message Set. CBP and CPSC are seeking small and large companies with an assortment of products under CPSC jurisdiction to participate in the test.

To be eligible to apply as a test participant, the applicant must:

- Import regulated consumer products within the Commission's jurisdiction or specified products subject to section 15(j) of the CPSA;
- File consumption entries and entry summaries in ACE, or have a broker who files in ACE;
- Use a software program that has completed ACE certification testing for the PGA Message Set;
- Be willing to participate in the Trade Support Network (TSN);
- Provide oral and written feedback on all aspects of the test as requested by CPSC, including information on costs to build to the requirements and time necessary to file targeting/enforcement data;
- Work with CPSC and CBP to test electronic filing of data using ABI to file through the Message Set, or references to targeting/enforcement data in the Data Registry; and
- Have a history of compliance with CPSC requirements.

Because the feedback on the test will be used to inform a rulemaking related to electronic filing, participant feedback will be publicly available.

CPSC, in consultation with CBP, will select participants based on the eligibility requirements, application date, the number and type of consumer products imported, how applicants would file targeting/enforcement data (PGA Message Set or Data Registry and Reference PGA Message Set), port locations, and the goal of having a diverse cross section of

the trade community participate. The number of participants will be limited in the discretion of CPSC, but will in no event exceed nine participants. Selected applicants will participate in the test at the discretion of CBP and CPSC.

IV. Application Process

Any party seeking to participate in the test should email the company name, contact information, filer code, port(s) at which they are interested in filing, and an explanation of how they satisfy the requirements for participation to: efilingpilot@cpsc.gov on or before [INSERT DATE THAT IS 45 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER] and throughout the duration of the test. CPSC will consider applications to participate until the test capacity of nine participants is filled. Requests to participate in the test should contain the subject heading: “Application to participate in PGA Message Set Test.” Applicants may be contacted directly for additional information in connection with the selection process. Selected participants will be notified by email. Selected test participants may have different starting dates. A party providing incomplete information, or otherwise not meeting the participation requirements, will be notified by email and given the opportunity to resubmit the application. Applicants who are not selected also will be notified by email.

V. Advantages of Participation

During the period of participation in the test, which the CPSC refers to as the “eFiling Alpha Pilot,” test participants can expect the following:

- Opportunity to work directly with CBP and CPSC in pre-implementation stage of e-Filing targeting/enforcement data;
- Ability to provide feedback and experience that will inform ultimate e-Filing requirements;

- Ability to trouble-shoot systems and procedures;
- Reduction of product safety tests on goods imported;
- In the event of an examination, shipments will be conditionally released to the importer's premises for examination;
- In the event of testing, samples will receive "front of the line testing" from CPSC laboratories; and
- If destruction of products is required, participants may be allowed to destroy products in lieu of redelivering the product to CBP for destruction.

VI. Test Duration

Upon selection into the test, test participants will be expected to begin work promptly with CBP and CPSC to define and refine requirements. Once the test is operational, the test is expected to run for approximately six months or until concluded or extended by the issuance of a *Federal Register* notice announcing the extension or conclusion of this test.

VII. Paperwork Reduction Act

For this initial test of electronic filing of targeting/enforcement data, CPSC will accept fewer than 10 participants, and the test will be exempt from the requirements of the Paperwork Reduction Act of 1995. If CPSC decides to participate in a larger-scale test, we will provide notice and seek an OMB control number specifically for such test.

VIII. Confidentiality

All data submitted and entered into ACE is subject to the Trade Secrets Act (18 U.S.C. 1905) and is considered confidential, except to the extent as otherwise provided by law. As stated in previous notices, participation in this or any of the previous ACE tests is not

confidential and upon a written Freedom of Information Act (“FOIA”) request, a name(s) of an approved participant(s) will be disclosed by CPSC or CBP in accordance with 5 U.S.C. 552.

Dated: August 18, 2015

Todd A. Stevenson, Secretary
Consumer Product Safety Commission
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